

Akin Gump Strauss Hauer & Feld LLP  
One Bryant Park  
Bank of America Tower  
New York, NY 10036

T +1 212.872.1000  
F +1 212.872.1002  
akingump.com

**Akin**

October 15, 2024

VIA ELECTRONIC COURT FILING

Honorable Mary Kay Vyskocil  
United States District Court  
Southern District of New York  
500 Pearl Street, Courtroom 18C  
New York, NY 10007

Re: 20230930-DK-Butterfly-1, Inc. v. HBC Investments LLC et al., No. 1:24-cv-03370  
(MKV) (SN)

Dear Judge Vyskocil:

Defendants HBC Investments LLC and Hudson Bay Capital Management LP (together, “Hudson Bay”) submit this letter in response to Plaintiff’s letter (ECF No. 49) requesting leave to file a 10-page brief in response to the Brief of Amici Curiae Securities Regulation Professors (the “Amicus Brief,” ECF Nos. 47-48). Respectfully, Plaintiff’s request is untimely and should be denied. Should the Court grant Plaintiff leave to file a response, Hudson Bay respectfully submits that it should be afforded a corresponding opportunity to respond to Plaintiff’s brief, with an equal number of pages and on a commensurate timeline.

Amici moved to file the Amicus Brief on August 30, 2024, attaching the proposed Amicus Brief to their motion (ECF Nos. 30-33). The Amicus Brief is slightly over 10 pages in total. On September 4, 2024, Plaintiff filed a letter informing the Court that it intended to oppose Amici’s motion by September 13, 2024 (ECF No. 34). Plaintiff filed its opposition to Hudson Bay’s motion to dismiss on September 6, 2024 (ECF No. 38).

Plaintiff filed a six-page opposition to Amici’s motion for leave to file the Amicus Brief on September 13, 2024, arguing that the then-proposed Amicus Brief: (1) presented “complete overlap” with Hudson Bay’s motion to dismiss and therefore presented “nothing ‘useful’ to add to Hudson Bay’s own submissions”; (2) exceeded the bounds of Rule 12(b)(6); and (3) was untimely (ECF No. 41). The Court granted the Amici’s motion for leave to file on October 7, 2024 (ECF No. 46) and Amici refiled the Amicus Brief later that day (ECF Nos. 47-48).

Plaintiff has had ample opportunity to respond to the Amicus Brief, including in its opposition to Hudson Bay’s motion to dismiss and its six-page opposition to Amici’s motion for leave to file that Brief. Indeed, several of the arguments Plaintiff purportedly intends to advance

**Akin**

Honorable Mary Kay Vyskocil  
United States District Court  
Southern District of New York  
October 15, 2024  
Page 2

in its response were already raised in its opposition to Amici's motion for leave to file the Amicus Brief. Moreover, Plaintiff's request for an additional 10 pages to raise the same arguments it raised in that brief—the same number of pages Hudson Bay was afforded in its reply to Plaintiff's opposition to the motion to dismiss—suggests that Plaintiff merely seeks an opportunity to file a sur-reply to Hudson Bay's motion to dismiss. Plaintiff strategically decided *not* to address the arguments raised by the Amicus Brief in its opposition brief and now appears to be attempting to get the last word on Hudson Bay's motion. Plaintiff's attempted gamesmanship should not be countenanced.

Should the Court nevertheless be inclined to grant Plaintiff's request to file an additional 10-page brief, Hudson Bay respectfully requests the opportunity to respond in kind, with a 10-page brief of its own in response to Plaintiff's, 14 days after Plaintiff files its brief.

Hudson Bay appreciates the Court's time and attention to this matter.

Respectfully,



Douglas A. Rappaport

cc: All Counsel